

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1233 OF 2002

Chainsingh Naval Singh Rajput

...Petitioner

Versus

State of Maharashtra & Ors.
Respondents.

...

Mr. N. Shimpi with Mr. P.D. Dhakephalkar for the Petitioner

Mr. S.R. Nargolkar, Assistant Government Pleader,
for Respondents No. 1 to 5.

CORAM: **V.G. PALSHIKAR, Ag.C.J., &**
SMT. NISHITA MHATRE, J.

DATE: JANUARY 18, 2006.

P.C.:-

1. By this petition, the petitioner has challenged the action of the respondent-State in granting permission to respondent No. 6 to start a secondary school in Village Malpur, Taluka Shinkheda, District Dhule, by its order dated 11th January, 2001.

2. The challenge is that the grant of this permission violates the Policy declared by the State in its Master Plan for Education from the year 2004-05. In this Policy, it is desired by

the State that there should not be unnecessary clustering of schools, which may result in students from the area suffering from the unwarranted competition for acquiring schools. The Policy is framed for development of education, and not for protection of educational institutions. Factually, respondent No. 6 is granted permission to run a secondary school after the matter was considered by the District-level Committee and the State-level Committee, and the decision was taken by the Cabinet Sub Committee. The procedure of going to the District-level and State-level Committees and ultimately, to the Cabinet Sub Committee is one which is prescribed in the Policy. That Policy is consistent with the judgment of this Court in Writ Petition No. 1773 of 2000. It is, however, obvious that nowhere there is any mandate that there shall never be a secondary school within the radius of 5 km of an existing school. Such could not be the intention either of this Court or the State of Maharashtra, as it will be definitely detrimental for better education of students, which is a fundamental right of those students.

3. In view of the fact that proper procedure, as laid down by the Policy, was followed, and in view of the statement made in the reply that in spite of the fact that two schools are

running in the area, no loss of substantial nature is caused to either of these institutions. We see no reason to interfere. The Petition is dismissed. Rule is discharged. Interim order stands vacated.